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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

**In re DAVID S., a Person Coming Under
the Juvenile Court Law.**

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID S.,

Defendant and Appellant.

A139129

**(Solano County
Super. Ct. No. J41779)**

Appellant David S., a minor, appeals from a dispositional order issued after the juvenile court sustained an allegation that appellant committed arson of a structure. On appeal, appellant argues the juvenile court's finding the structure was burned was not supported by substantial evidence. We affirm.

BACKGROUND

We set forth only those facts relevant to this appeal. In May 2013, the People filed a Welfare and Institutions Code section 602, subdivision (a), juvenile wardship petition alleging appellant committed arson of a structure in violation of Penal Code section 451, subdivision (c). Appellant denied the allegation.

At a contested hearing, the People introduced evidence that appellant started a fire in a high school gym locker. At the time of the fire, police officer Joe Curtis was assigned to the high school as a school resource officer. Curtis observed the locker on

the day of the fire, after the fire had been extinguished. He saw burned clothes and shoes inside the locker. Curtis also testified “the fire had charred the metal” of the locker door, meaning “the paint had been burned off leaving the oxidized metal exposed.” The lockers had been newly installed less than a year before the fire.

An investigator with the public defender’s office, Ricardo Murillo, testified for appellant. A few weeks after the fire, Murillo went to the high school to view and photograph the locker at issue. Murillo did not see any bubbling on the paint of the locker. He saw powder from the fire extinguisher and soot. He also saw, in the corners, what he initially identified as rust. However, he subsequently conceded he did not know how to distinguish between rust and charring, and therefore he did not know whether he saw charring. Enlarged color copies of Murillo’s photographs of the locker were received into evidence.

The juvenile court sustained the allegation. This appeal followed.

DISCUSSION

Penal Code section 451 provides, in relevant part, “A person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned . . . any structure” “It is well established that the setting of a fire which does not burn the structure itself does not violate [Penal Code section 451, subdivision (c)].” (*In re Jesse L.* (1990) 221 Cal.App.3d 161, 166 (*Jesse L.*)). Appellant does not contest that this element is satisfied if the evidence shows the locker was charred. Instead, he contends this element was not met because the evidence showed the only damage to the locker was soot and powder from the fire extinguisher.

“When the sufficiency of the evidence supporting a criminal conviction is challenged on appeal, ‘the court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence — that is, evidence which is reasonable, credible, and of solid value — such that a reasonable trier of fact would find the defendant guilty beyond a reasonable doubt.’ [Citation.] [¶] The question is whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime

beyond a reasonable doubt. [Citations.] . . . This standard of review is equally applicable to proceedings adjudicated pursuant to section 602 of the Welfare and Institutions Code. [Citation.]” (*Jesse L.*, *supra*, 221 Cal.App.3d at p. 165.)

Curtis testified he saw charring in the locker where paint had burned off. This testimony is sufficient to support the juvenile court’s finding. Moreover, it was not contradicted by Murillo’s testimony. Murillo testified he saw what he believed to be rust, but conceded he did not know how to distinguish rust from charring.

Appellant contends Murillo’s photographs rebut Curtis’s testimony by showing the only damage to the locker was soot and fire extinguisher powder. However, the photographs are inconclusive.¹ The photographs depict the entire locker and do not show a close, clear image of the locker corners or door — the areas where Curtis saw charring and Murillo saw either rust or charring. Moreover, it is difficult to discern whether discolored areas in the photograph are charring, or soot and fire extinguisher powder. Accordingly, substantial evidence supports the finding the lockers were burned.

DISPOSITION

The order is affirmed.

SIMONS, Acting P.J.

We concur.

NEEDHAM, J.

BRUINIERS, J.

¹ The record on appeal initially included only a black and white copy of the photograph exhibits. We requested the original exhibits from the superior court and have reviewed those.